No. 08-539

IN THE

Supreme Court of the United States

REPUBLIC OF IRAQ, ET AL.
PETITIONERS,

v.

ROBERT SIMON, ET AL.
RESPONDENTS,

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMICUS CURIAE BRIEF OF PLAINTIFFS IN *PETERSON V. ISLAMIC REPUBLIC OF IRAN*, CA 01-2094 (RCL), 01-2684 (RCL) IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA IN SUPPORT OF *SIMON* RESPONDENTS

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INTEREST OF *AMICUS*

On October 23, 1983, a Hezbollah suicide bomber blew up a barracks housing United States Marines and other service personnel in Beirut, Lebanon, killing 244 Marines and serviceman. *Amicus curiae* Deborah D. Peterson, et al., ("Peterson") are family members of deceased and survivors of bombing. In 2001, they filed a lawsuit under 28 U.S.C. § 1605(a)(7) in the United States District Court for the District of Columbia, *Peterson v. Islamic Republic of Iran*, 01-2094 (RCL) and 01-2684 (RCL), before the Honorable Royce Lamberth (now Chief Judge), who granted judgment in favor of the Plaintiffs in the amount of $2,656,856,907 on September 7, 2007. ("*Peterson* judgment").

After the entry of the *Peterson* judgment, Congress passed and ultimately the President signed the National Defense Authorization Act, for Fiscal Year 2008 ("NDAA"), Public Law No. 110-181, 122 Stat. 3, § 1083 ("NDAA § 1083"), which affirmed and enhanced, in part, the rights and remedies of victims who have suffered at the hands of state sponsors of terrorism. The *Peterson* judgment is now the subject of active enforcement in multiple United States federal courts pursuant to the legislative scheme that was partially revised by the NDAA.

Petitioners Republic of Iraq, et al., ("Petitioners or Iraq") argue that § 1083 of the NDAA repealed the jurisdiction of the federal courts over pending 28 U.S.C. § 1605(a)(7) claims, which would effectively terminate further proceedings on behalf of Respondents Simon, but enabling other eligible parties to proceed under 28 U.S.C. § 1605A.

The case at bar involves questions fundamental to the effective implementation of §1083 of the NDAA, a statute having significant importance in Congress's anti-terrorism legislative scheme. These questions include:

1. Whether § 1083 of the NDAA meant to repeal the federal courts' jurisdiction over 28 U.S.C. § 1605(a)(7) cases pending before the federal courts at the time of the passage of the NDAA, and;

2. What effect did Congress intend upon 28 U.S.C. § 1605(a)(7) judgments existing at the time of the passage of the NDAA.

To avoid any adverse impact upon the historic *Peterson* judgment, Peterson argues that the passage of NDAA § 1083 does not foreclose, repeal, diminish or extinguish the federal courts' continuing jurisdiction to enforce 28 U.S.C. § 1605(a)(7) judgments or to hear § 1605(a)(7) cases pending at the time of the passage of the NDAA.[1]

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[1] The parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or part, and no

SUMMARY OF THE ARGUMENT

In 2008, Congress modified its anti-state sponsorship of terrorism legislative scheme by passing the NDAA into law. The precise breadth Petitioners' argument that the NDAA effected a jurisdictional repeal of 28 U.S.C. § 1605(a)(7) cases is not clear from their merits brief. Should the Court decide that the NDAA indeed divested the federal courts of their jurisdiction to enter a judgment in 28 U.S.C. § 1605(a)(7) claims pending at the time of the passage of the NDAA, *amicus curiae* argue that such a holding should not impair those claimants, such as *Peterson*, who held 28 U.S.C. § 1605(a)(7) judgments at the time of the passage of the NDAA. Such judgments are currently the subject of enforcement efforts under a new warrant of jurisdictional authority created by the NDAA.

In any event, the plain language of the NDAA rebuts Petitioners' flawed argument that the NDAA intended to divest the federal courts of jurisdiction over pending 28 U.S.C. § 1605(a)(7) cases. The NDAA retained, if not created a continuing right of enforcement under 28 U.S.C. § 1610(a)(7) that confirms the right of Respondents to prosecute and enforce their 28 U.S.C. § 1605(a)(7) claims subsequent to the passage of the NDAA. Petitioners' position would not serve any purpose other than to take away existing rights and remedies against state-sponsors of terrorism and therefore reduce the effect of Congress's careful and measured effort to compensate victims of state-sponsored terrorism.

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counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.

ARGUMENT

Peterson's *amicus* brief follows Judge Posner's guidelines[2] by avoiding a restatement of the arguments already found in the parties' merits briefs regarding one of the central issues—whether the NDAA divested the federal courts of jurisdiction over § 1605(a)(7) cases pending at the time of the passage of the NDAA—and concentrating the focus of the *amicus* brief on the question whether the language of the NDAA would divest the federal courts of their jurisdiction to enforce existing § 1605(a)(7) judgments. A decision in this case could adversely effect (and potentially repeal) the jurisdiction of the federal courts over all 28 U.S.C. § 1605(a)(7) cases regardless of the stage of proceeding, whether pre or post judgment, which would include classes of cases not before this Court in this appeal, such as *Peterson*. It is therefore important to consider the ramifications of the incorrect interpretation of § 1083 of the NDAA proposed by Petitioners.

The language and structure of the NDAA confirm that 28 U.S.C. § 1605(a)(7) judgments are still

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[2] In several opinions, the Honorable Richard Posner of the United States Court of Appeals for the Seventh Circuit has enunciated useful guidelines for the filing of an *amicus curiae* brief. "The term 'amicus curiae' means friend of the court, not friend of a party." *Ryan v. Commodity Futures Trading Commission*, 125 F. 3d. 1062, 1063 (7th Cir. 1997) (citing *United States v. Michigan*, 940 F.2d 143, 164-65 (6th Cir. 1991)). Judge Posner exhorts *amicus* to file an brief which might show that *amicus*' interests might be adversely impacted by the "decision in the present case" by operation of "stare decisis or res judicata," that the amicus has "unique perspective" or "information," in excess of the offerings of the litigants, and inferentially drives home an extraordinary or key point omitted in the party's briefs. *National Organization for Women, Inc. v. Scheidler*, 223 F.3d 615, 616 (7th Cir. 2000). "The judges of this court . . . will deny permission to file an amicus brief that essentially duplicates a party's brief." *Voices for Choices v. Ill. Bell Tel. Co.*, 339 F.3d 542, 544 (7th Cir. 2003) (quoting *National Organization for Women, Inc.*, 223 F.3d at 616).

enforceable in the post NDAA world under the jurisdictional grant of 28 U.S.C. § 1610(a)(7), which was created by the NDAA. Congress could not have therefore intended to hamper the enforcement of existing 28 U.S.C. § 1605(a)(7) judgments through the passage of the NDAA.

Peterson also rejects Petitioners' argument that the enactment of the NDAA 2008 serves as a "repealer", the effect of which would be to eliminate the jurisdiction of the federal courts from hearing any claim under 28 U.S.C. § 1605(a)(7), (Pet'rs Brief at 37-44), based upon the NDAA's creation of a enforcement provision in 28 U.S.C. § 1610(a)(7) that confirms the jurisdiction of the federal courts over 28 U.S.C. § 1605(a)(7) claims.

I. THE STRUCTURE AND PURPOSE OF SECTION 1083 OF THE NATIONAL DEFENSE AUTHORIZATION ACT OF 2008 DENIES IRAQ'S ARGUMENT THAT THE NDAA DIVESTS THE FEDERAL COURTS OF JURISDICTION TO ENFORCE OR HEAR CLAIMS BROUGHT UNDER SECTION 1605(a)(7)

A. *The passage of the NDAA did not divest the federal courts of jurisdiction over the enforcement of existing 28 U.S.C. § 1605(a)(7) judgments*

Subsection (c) of § 1083 of the NDAA contains a provision for essentially "recycling" 28 U.S.C. § 1605(a)(7) into 28 U.S.C. § 1605A claims for the purpose of obtaining access to certain further rights and remedies attendant to a claim under 28 U.S.C. § 1605A. *Peterson*, holding a valid final judgment at the time of the passage of the NDAA, chose not to "recycle" their judgments as did other 28 U.S.C. § 1605(a)(7) judgment holders and claimants, and accordingly, the *Peterson* judgment would be deemed rendered under 28 U.S.C. § 1605(a)(7).

Should the Court agree with Iraq's argument that the enactment of § 1605A serves to in effect repeal those unresolved § 1605(a)(7) claims pending at the time of the passage of the NDAA, federal courts would still retain jurisdiction over the enforcement of any § 1605(a)(7) judgments, such as *Peterson's*, even if a federal court might not be able to "hear" a claim under § 1605(a)(7).

The enactment of the NDAA, the ultimate effect of which is to replace § 1605(a)(7) with § 1605A for future claimants, did not withdraw from the federal court the jurisdiction to hear existing 28 U.S.C. § 1605(a)(7) cases or to enforce a § 1605(a)(7) judgment. Textual analysis of the language of the pertinent sections of the FSIA is required to arrive at the correct conclusion regarding Congress's intent behind of the NDAA. As a matter of statutory interpretation, the words of the pertinent sections are clear on their face. "Our objective in a case such as this is to ascertain the congressional intent and give effect to the legislative will." *Philbrook v. Glodgett*, 421 U.S. 707, 713 (1975). As the Court has noted, "[j]udicial perception that a particular result would be unreasonable may enter into the construction of ambiguous provisions, but cannot justify disregard of what Congress has plainly and intentionally provided." *Commissioner v. Asphalt Products Co.*, 482 U.S. 117, 121 (1987).

Iraq's interpretation of § 1083 of the NDAA would operate to undercut the intended effect of Congress's legislative scheme to provide compensation to victims of state-sponsored terrorism. Section 1610(a)(7), created by the NDAA, provides federal courts with the jurisdiction to enforce a judgment under § 1605(a)(7), as follows:

> (a) The property in the United States of a foreign state, as defined in section 1603 (a) of this chapter, used for a commercial activity in the United States, shall not be immune from

> attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—
>
> . . .
>
> *(7) the judgment relates to a claim for which the foreign state is not immune under section 1605 (a)(7),* regardless of whether the property is or was involved with the act upon which the claim is based.

(emphasis added).

In 28 U.S.C. § 1610, Congress clearly distinguished between a "judgment entered under § 1605A" and a "judgment which relates to a claim" in the explicit language of the statute, which defines judgments in two separate categories. For example, in § 1610(g)(1), Congress provides the holder of a § 1605A judgment with the following rights: "[s]ubject to paragraph (3), the property of a foreign state against which a *judgment is entered under Section 1605A* . . . ." (emphasis added). This language is constructed in a parallel fashion in § 1610(g)(2), which further delineates the enforcement rights of a judgment holder under Section 1605A, as follows: ". . . upon a *judgment entered under Section 1605A* . . . ."

These subsections rely upon the difference between a judgment which "relates to" and a judgment which is "entered under." In 28 U.S.C. § 1610 Congress described different rights based upon whether a judgment holder possessed a judgment that "relate to" § 1605A or that which was "entered under Section 1605A." As a matter of statutory interpretation a court is to give plain meaning to the words of the statute – which plainly differentiates between judgments relating to § 1605A or those entered under § 1605A. *E.g., Lamie v. United States Tr.*, 540 U.S. 526, 536 (2004) ("We should prefer the plain meaning since that approach respects the

words of Congress."). In the post NDAA world, Congress provided that a federal court could enforce under § 1610(a)(7) either a judgment under § 1605(a)(7) as the judgment would necessarily "relate" to a claim under § 1605A, or a new judgment under § 1605A.

The legislative history of the NDAA confirms that the revisions created by § 1083 were intended to be made available to the *Peterson* judgment holders and any others with a similar standing. Senator Frank Lautenberg, the original co-sponsor of the legislation that became § 1083 of the NDAA, explained:

> [i]n a case known as Peterson v. the Islamic Republic of Iran, filed on behalf of many of the marine victims and their families, the U.S. District Court ruled in 2003 that the terrorist organization Hezbollah was funded by, directed by, and relied upon the Islamic Republic of Iran and its Ministry of Information and Security to carry out that heinous attack. The judge presiding over this case, Judge Royce Lamberth, referred to this as "the most deadly state sponsored terrorist attack made against United States citizens before September 11, 2001." In September of this year Judge Lamberth found that Iran not only is responsible for this attack but also owes the families of the victims a total of more than $2.6 billion for the attack. Congress's support of my provision will now empower these victims to pursue Iranian assets to obtain this just compensation for their suffering.

154 Cong. Rec. S55 (daily ed. Jan. 22, 2008) (floor statement of Sen. Lautenberg).

In other subsections of 28 U.S.C. § 1610, Congress differentiated between two kinds of judgments: both § 1605(a)(7) and § 1605A judgments. For example, § 1610(f)(1)(A) clearly envisioned two classes of judgments, as follows:

> shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under *section 1605 (a)(7) (as in effect before the enactment of section 1605A) or section 1605A.*

(emphasis added). Section 1610(f)(2)(A) likewise envisions the enforcement of both judgments, as follows:

> [a]t the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under *section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A*, the Secretary of the Treasury and the Secretary of State should make every effort to fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in *identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.*

(emphasis added).

Congress's expansion of assets available to a § 1605(a)(7) judgment creditor under § 1610(f)(1)(A) and authorization of the Secretary of the Treasury and Secretary of State to provide information under § 1610(f)(2)(A), all in favor of a § 1605(a)(7) creditor, provides further support that these judgments

remain enforceable subsequent to the passage of the NDAA and therefore that the federal courts retain jurisdiction over Respondents' § 1605(a)(7) cases.

Providing a § 1605(a)(7) creditor with a broader range of assets to seize, and information to assist in the enforcement process leads to the conclusion that the cases are valid and the judgments are necessarily enforceable. The repealer doctrine, asserted by Iraq, would only lead to an absurd result in which § 1605(a)(7) judgments would have a greater range of assets, assistance from the government to collect, but the court would lack the jurisdiction for such enforcement precisely anticipated by the statute itself. Federal courts traditionally seek to avoid absurd results when interpreting statutory language. *United States v. Turkette*, 452 U.S. 576, 580 (1981).

When Congress drafted and passed 28 U.S.C. § 1610(a)(7) into law in § 1083 of the NDAA, Congress made it clear that a § 1605(a)(7) judgment remains enforceable under the new law as a § 1605(a)(7) judgment would "relate" to a § 1605A claim, as required by § 1610(a)(7). The term "relate" (or relating) is defined by the NDAA in subsection (c)(3) of § 1083 as: "[a]ny other action arising out of the same act or incident . . . may be brought under Section 1605 of Title 28 United States Code . . ."

The word "related" anticipates that the § 1605(a)(7) would necessarily "arise out of the same act or incident" as would a § 1605A claim. The concept of "related" is likewise found under § 1605A(a)(2)(A)(ii), in which a court would define the jurisdiction of the court by way of a "related action," as follows:

> [i]n the case of an action that is refiled by reason of Section 1083(c)(2)(a) of the NDAA for the Fiscal Year 2008 or is filed under this section by reason of 1083(c)(3) of that act, the foreign state was designated as a state sponsor of terrorism when the original action or

> related action under Section 1605(a)(7) . . . was filed.

Congress anticipated that a court might render a judgment under § 1605(a)(7), subsequent to the passage of the NDAA, in which such a judgment would "relate" and independently be enforceable under § 1610(a)(7), and with the additional right of recovery as to certain defined assets under § 1610(f)(1)(a), and moreover, the right to receive the cooperation of the Secretary of Treasury and the Secretary of State under § 1610(f)(2)(a). Any other interpretation would conflate the terms "relate," with the terms "entered under," and therefore contravene the intent of Congress and ignore its precise drafting.

If, as Iraq contends, that NDAA § 1083 is a "repealer," of jurisdiction for § 1605(a)(7) cases, thereby also withdrawing from the federal courts the jurisdiction to consider and enforce a judgment under § 1610(a), Congress could have readily redrafted § 1610(a)(7) to state generally, "a judgment entered under Section 1605A," as opposed to its current language. Congress of course used the word "relate," not "entered under," a clear distinction that must be accorded its plain meaning. Viewing other sections of 1605A and 1610, Congress made it clear that § 1605(a)(7) cases and their judgment enforcement would survive the passage of the NDAA and be independently enforceable under FSIA irrespective of the § 1605(a)(7) judgment holders decision to recycle their claims into a § 1605A claim.

This outcome would be consistent with the practical realities in the litigation of a large case. While § 1083 of the NDAA might provide various advantages in the enforcement process or enhanced remedies to new claimants, a § 1605(a)(7) judgment creditor might rethink these advantages, in light of the fact that the judgment creditor would be obligated to "recycle" the judgment, by filing a new independent action. This independent action would literally invite the state sponsor of terrorism into the courthouse, which might prompt the tremendous

delay and expense of the relitigation of the entire matter, and potentially a different outcome. Given the significant passage of time on some of these actions, the prospect of delay or a different outcome would be a rational concern, along with the prospect of significant time, expense, and effort.

Ultimately Iraq's argument does not touch upon the validity of final § 1605(a)(7) judgments existing at the time of the passage of the NDAA. Preservation of the *Peterson* judgment itself likewise would be consistent with Iraq's arguments, which is solely limited to "pending cases" under § 1605(a)(7) as opposed to § 1605(a)(7) judgments. Repealing or limiting the jurisdiction of the federal courts to enforce a judgment, once granted, would have the effect reducing, if not vitiating rights already granted by statute, and presumption, as a matter of statutory interpretation would argue against the virtual destruction of a judgment.

Even under the doctrine of "repealing" the federal courts' jurisdiction to hear a claim against a foreign sovereign, the *Peterson* judgment would still survive because the Petitioners' proposed jurisdictional repeal is limited to the federal court's power to "hear" a case, not the power to enforce a judgment, assuming the court has the power to hear the case at the time of trial.

The passage of the NDAA did not divest the federal courts of the power of enforcement of § 1605(a)(7) judgments. This result is readily apparent, for example if a § 1605(a)(7) was heard prior to January 28, 2008—the date of enactment of NDAA 1083)—but if the judgment was rendered after January 28, 2008. This post NDAA 1083 judgment, based on a § 1605(a)(7) case remains enforceable because § 1610(a)(7) permits enforcement of a judgment if "relat[ing]" to "a claim for which the foreign state is not immune under Section 1605A . . ." By its plain language, § 1610(a)(7) does not require the recycling of a post NDAA 1083 §

1605(a)(7) and permits enforcement because the § 1605(a)(7) judgment "relates" to § 1605A as arising from the same events. Moreover § 1610(a)(7) does not limit enforcement to judgments entered under Section 1605A, nor bar enforcement of a § 1605(a)(7) judgment, regardless of the date of entry, according to the plain language of § 1610(a)(7).

B. *The passage of the NDAA did not divest the federal courts of jurisdiction over existing 28 U.S.C. § 1605(a)(7) cases*

Amicus supports the interpretation of § 1083 of the NDAA as stated by the United States Court of Appeals for the District of Columbia Circuit, in *Simon v. Republic of Iraq*, 529 F.3d 1187, 1193 (D.C. Cir. 2008), which found that after the passage of the NDAA federal courts retained jurisdiction to enter a judgment upon § 1605(a)(7) claims.

Additionally, jurisdiction to hear a § 1605(a)(7) claim, subsequent to the passage of the NDAA, rests upon a reservoir of jurisdiction found in § 1610(a)(7) and this *amicus* brief will demonstrate that in this reservoir the federal courts retain subject matter jurisdiction subsequent to the passage of the NDAA to hear pre NDAA § 1605(a)(7) cases.

Petitioners argue that NDAA repealed the jurisdiction of the federal courts to "hear" § 1605(a)(7) claims and effectively ended the power of the courts to hear Respondents' § 1605(a)(7) case. Petitioners argue inferentially that § 1605A and § 1605(a)(7) are mutually exclusive, that an aggrieved § 1605(a)(7) claimant has only the right to recycle the claim into a § 1605A claim after the passage of the NDAA, which would have the effect of ending the underlying § 1605(a)(7) litigation.

Petitioners argument is rebutted by the plain language of § 1610(a)(7). The source of Respondents' continuing post NDAA jurisdiction is found in the continuing jurisdiction to enforce a § 1605(a)(7) judgment, or any other judgment which "relates to a judgment for which the foreign state is not immune

under Section 1605A," embodied in § 1610(a)(7). An analysis of post judgment jurisdiction under the FSIA leads to the conclusion that the courthouse door is still open to § 1605(a)(7) claimants, based upon the fact that Congress granted the courts expansive jurisdiction to enforce a judgment under § 1610(a)(7) in the NDAA, as long as the judgment "relates" to a claim against a sovereign based upon § 1605A. This grant of jurisdiction to enforce is greater than the jurisdiction to "hear" cases under § 1605A. Congress therefore necessarily anticipated that NDAA would permit enforcement of judgments, outside the jurisdictional pillar of § 1605A. The gap between the power to hear and the power to enforce creates a reservoir of subject matter jurisdiction arising from the expanded power to enforce § 1605(a)(7) judgments under § 1610(a)(7).

Section 1610(a)(7) permits enforcement of a judgment if the judgment "relates" to a claim against a foreign sovereign who is not immune under § 1605A. This broad language starkly contrasts with § 1610(g)(1), which limits enforcement against agencies and instrumentalities to judgments "entered under Section 1605A." The expansive language used by Congress at § 1610(a)(7), rooted in the "relates to" phraseology, supports Respondents' argument that two classes of judgments, both § 1605(a)(7) and § 1605A judgments, would trigger or enable enforcement under § 1610(a)(7. Congress would have limited enforcement to judgments under § 1605A, but declined to do so. Congress clearly could have enacted this limitation in precluding post NDAA enforcement of a § 1605(a)(7) judgment, had Congress so expressed, but obviously declined to do so. *See Staples v. United States*, 511 U.S. 600, 620 (1994). This analysis further supports § 1610(a)(7) envisions enforceable judgments related but outside the jurisdictional timbers of § 1605A.

These enforceable § 1605(a)(7) judgments, related to claims under § 1605A, lead to the conclusion that Congress imbued the courts with jurisdiction to hear

these § 1605(a)(7) claims in the first place because Congress anticipated enforcement of both § 1605A and non § 1605A judgments under § 1610(a)(7). All valid federal judgments require a valid underlying jurisdictional component as a prerequisite, which would include both personal and subject matter jurisdiction. *Insurance Company of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 703 (1982). The ability of a federal court to enforce a judgment under § 1610(a)(7) presumes valid subject matter jurisdiction exists for the underlying claim.

In the post NDAA world, federal courts have the jurisdiction to enforce a judgment for a § 1605(a)(7) judgment, which is related to a claim under § 1605A as required by § 1610(a)(7). Congress likewise did not place any specific time limitations, or for that matter, any other restriction in a federal court's post NDAA jurisdiction in the enforcement of a judgment, other than as set forth by way of § 1610(a)(7). Given the breadth of § 1610(a)(7), the Court may enforce a § 1605(a)(7) judgment without limitation as to when that particularly judgment might have been rendered. As a § 1605(a)(7) judgment (or other non-tethered judgment) is enforceable in the post NDAA world regardless of the date of entry, this presumes that a jurisdictional reservoir exists in § 1610(a)(7) that sustains the ability of federal courts to adjudicate cases such as Respondents.

Petitioners might well counter that the jurisdiction of a federal court to enforce a judgment is limited to judgments under § 1605A, or pre NDAA § 1605(a)(7) judgments (such as *Peterson*). Congress clearly could have limited post judgment enforcement in the plain language of § 1610(a)(7) to these two specific classes of judgments (§ 1605A judgments and judgments rendered prior to NDAA), but chose not to do so and clearly left an undeniable gap between § 1605A claims to be "heard," and "claims to be enforced, under § 1610(a)(7). Congress is capable of expressing its intentions, *United States v. Rogers* 461 U.S. 677. 707-08 (1983), and

considering the extremely broad scope of § 1610(a)(7) a favorable inference may be drawn that Congress did not want to limit, define, or foreclose the enforcement of any type of claims which "relate . . ." to § 1605A or when such a judgment would be rendered, or the actual statutory basis. This would be consistent with the fact that NDAA is classically "remedial" and serves the purpose of aiding and assisting victims of the acts of state sponsors of terrorism, and therefore the court should interpret the statute liberally, all for the purpose of fulfilling the intention of Congress. *Reyton v. Rowe*, 391 U.S. 54 (1968).

The continuing validity of § 1605(a)(7) cases, such as Respondents, find its jurisdictional wellspring in the statutory reservoir of § 1610(a)(7). The post NDAA power to enforce a judgment reaches any judgment which "relates to a claim for which a foreign state is not immune under Section 1605A." 28 U.S.C. § 1610(a)(7) Post NDAA the power of the court to hear a claim against a foreign state, for a terrorist act, is found under § 1605A. The "power to enforce" exceeds the power to "hear." Section 1610(a)(7) therefore has created a reservoir of jurisdiction beyond § 1605A because non-tethered, but related § 1605A claims are enforceable. Section 1610(a)(7) does not limit this reservoir of jurisdiction by, for example, when the judgment arose, the statutory basis, the date of the underlying act, or any other qualifications.

CONCLUSION

WHEREFORE, *amicus curiae* respectfully requests that this Honorable Court find that the NDAA had no effect on the federal courts' jurisdiction to enforce § 1605(a)(7) judgments, such as *Peterson*, or to adjudicate § 1605(a)(7) cases pending at the time of the passage of the NDAA.

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